

**REPORT OF THE AUDIT OF THE  
OWSLEY COUNTY  
CLERK**

**For The Year Ended  
December 31, 2011**



**ADAM H. EDELEN  
AUDITOR OF PUBLIC ACCOUNTS  
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## **EXECUTIVE SUMMARY**

### **AUDIT EXAMINATION OF THE OWSLEY COUNTY CLERK**

**For The Year Ended  
December 31, 2011**

The Auditor of Public Accounts was engaged to audit the fee account activities of the Owsley County Clerk's office for the year ended December 31, 2011. Based upon the audit work performed, we have issued a disclaimer of opinion on the financial statement.

Based upon our assessment of audit risk, we determined the risk of fraud to be too high to issue an opinion and we were unable to apply other audit procedures to overcome this risk. In addition, the County Clerk's office had serious weaknesses in the design and operation of its internal control structure and accounting functions.

#### **Report Comments:**

- 2011-01 The County Clerk Did Not Manage The Financial Activities Of His Office
- 2011-02 The County Clerk Did Not Comply With The Uniform System Of Accounts
- 2011-03 The County Clerk's Office Lacks Adequate Segregation Of Duties
- 2011-04 The County Clerk Has A Known Deficit Of \$132,305 In His 2011 Fee Account
- 2011-05 The County Clerk Had \$159 In Disallowed Expenditures
- 2011-06 The County Clerk Deposited \$36,600 Of Unidentified Cash After Year End
- 2011-07 The County Clerk Has Not Closed Out His 2011 Fee Account
- 2011-08 The County Clerk Did Not Remit Payroll Withholdings And Matching Funds To Proper Agencies
- 2011-09 The County Clerk Did Not Account For Delinquent Taxes Completely And Accurately
- 2011-10 The County Clerk Did Not Remit Deed Transfer Tax To The County
- 2011-11 The County Clerk Has Not Closed Out His 2010 Fee Account
- 2011-12 The County Clerk Did Not Settle Prior Period Liabilities
- 2011-13 The County Clerk Did Not Issue Receipts In Accordance With KRS 64.840
- 2011-14 The County Clerk Did Not Record Payments From The Commonwealth Of Kentucky And The Fiscal Court In Accordance With KRS 43.075
- 2011-15 The County Clerk Did Not Follow Proper Timekeeping Practices For Payroll
- 2011-16 Form 1099 Was Not Prepared For All Applicable Contract Labor
- 2011-17 The County Clerk Did Not Remit Ad Valorem Taxes To Taxing Districts Timely
- 2011-18 The County Clerk Did Not Prepare And Submit Title Applications Timely
- 2011-19 The County Clerk Cashed \$979 Of Checks Received From Taxpayers For Fee Collections

#### **Deposits:**

The County Clerk's deposits were insured and collateralized by bank securities.



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**ADAM H. EDELEN**  
**AUDITOR OF PUBLIC ACCOUNTS**

The Honorable Ronnie DeBord, Owsley County Judge/Executive  
The Honorable Sid Gabbard, Owsley County Clerk  
Members of the Owsley County Fiscal Court

Independent Auditor's Report

We were engaged to audit the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the County Clerk of Owsley County, Kentucky, for the year ended December 31, 2011. This financial statement is the responsibility of the County Clerk. Our responsibility is to express an opinion on this financial statement based on our audit.

The County Clerk did not provide us with a management representation letter and did not maintain adequate accounting records of fee account revenues and expenditures to allow us to apply other auditing procedures to satisfy ourselves as to the validity of fee account revenues and expenditures. However, based on available accounting records, material financial statement misstatements were identified along with other significant deficiencies in the county clerk's records and a lack of internal controls. The County Clerk did not accept the related audit adjustments to correct these misstatements. The combination of these items resulted in a high level of audit risk.

Due to the apparent lack of internal controls and since the Owsley County Clerk did not provide us with a management representation letter, maintain adequate accounting records, or correct identified material financial statement misstatements as discussed in the paragraph above, we were unable to reduce the audit risk to an acceptable level. Since the scope of our work was not adequate to enable us to express, and we do not express, an opinion on the financial statement described in the first paragraph.

In accordance with Government Auditing Standards, we have also issued our report dated March 8, 2013 on our consideration of the Owsley County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Ronnie DeBord, Owsley County Judge/Executive  
The Honorable Sid Gabbard, Owsley County Clerk  
Members of the Owsley County Fiscal Court

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discuss the following report comments:

- 2011-01 The County Clerk Did Not Manage The Financial Activities Of His Office
- 2011-02 The County Clerk Did Not Comply With The Uniform System Of Accounts
- 2011-03 The County Clerk's Office Lacks Adequate Segregation Of Duties
- 2011-04 The County Clerk Has A Known Deficit Of \$132,305 In His 2011 Fee Account
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- 2011-18 The County Clerk Did Not Prepare And Submit Title Applications Timely
- 2011-19 The County Clerk Cashed \$979 Of Checks Received From Taxpayers For Fee Collections

This report is intended solely for the information and use of the County Clerk and Fiscal Court of Owsley County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Adam H. Edelen  
Auditor of Public Accounts

March 8, 2013



OWSLEY COUNTY  
COUNTY CLERK'S 4<sup>TH</sup> QUARTER REPORT



**OWSLEY COUNTY  
COUNTY CLERK'S 4<sup>TH</sup> QUARTER REPORT**

Form For Budget, Cumulative Quarterly Report and Annual Settlement For Calendar Year 2011

County Clerk Owsley

## **Part One - Summary and Reconciliation of All Accounts**

Show & Describe All Accounts	Column 1		Column 2	Column 3		Column 4	
	2011 Fee Account	Budget Estimate		Account 2007 Fee Account	Account 2007 Fee Account	Account (NOT Fee Account)	Account (NOT Fee Account)
1. Receipts YTD	717,800.67		Cumulative Actual				
2. Total Disbursements YTD	717,800.67						
3. Book Balance/Excess Fees	0						
1. Bank Statement Balance			19,302.67				
2. Plus Deposits in Transit			14,261.84				
3. Less Outstanding Checks			30,252.27				
4. Other							
1. Reconciled Bank Balance			3,312.24				
1. Accounts Receivable as of 12/31							
2. Unpaid Obligations as of 12/31							
Excess Fees							

[illegible]

Approved by the fiscal court on the 14 day of April, 2011

*Conner*  
County Judge Executive

To the best of my knowledge the information reported herein for the budget quarter ended 6/30/11 is accurate and complete.

Signature of County Clerk

OWSLEY COUNTY  
COUNTY CLERK'S 4<sup>TH</sup> QUARTER REPORT  
(Continued)

Part Two Receipts		Budget Estimate	1/1 thru 3/31	4/1 thru 6/30	7/1 thru 9/30	10/1 thru 12/31	Total YTD	Accounts Receivable 12/31	Settlement Total
1.	Federal Grants/Reimbursements								
2.	State Grants	600.00							
3.	State Fees For Services	2,000.00							
4.	Fixed Court	840.00							
5.	Revenue Supplement (< 20,000 pop)	6128.67	5860.00						
6.	Licenses and Taxes								
7.	Motor Vehicle:								
8.	Licenses and Transfers	17800.00	48249.04	43088.93	28059.41	26091.87	175476.25		145476.25
9.	Usage Tax	12700.00	29280.00	30323.56	23243.41	19749.23	98587.24		92587.24
10.	Tangible Personal Property Tax	23900.00	63429.22	54360.93	49727.26	48954.10	214912.10		214912.10
11.	Notary Fees								
12.									
13.	Licenses (alcohol)								
14.	Fish and Game								
15.	Marriage	1500.00	2760.00	448.50	310.50	61.00	1184.00		1184.00
16.	Occupational								
17.	Beer & Liquor								
18.									
19.									
20.	Deed Transfer Tax	3200.00	662.50	305.50	504.00	426.70	1898.90		1898.90
21.	Delinquent Taxes	28000.00	2400.47	2376.74	22410.49	1130.05	39077.69		39077.69
22.	Fees Collected for Services								
23.	Recordings:								
24.	Deeds, Easements, and Contracts	2650.00	774.00	510.00	598.00	240.00	2214.00		2214.00
25.	Real Estate Mortgages	14700.00	302.00	301.00	181.00	257.00	1041.00		1041.00
26.	Chattel Mortgages & Financing Statements	10100.00	2205.00	2063.50	2541.00	2310.00	9324.00		9324.00
27.	Powers of Attorney	225.00	97.00	77.00	30.00	80.00	284.00		284.00
28.	All Other Recordings	280.00	77.80	603.00	151.00	543.00	2574.80		2574.80
29.	Charges for Other Services:								
30.	Copy work	12300.00	1156.00	1627.15	1766.00	1879.00	6428.15		6428.15
31.	Postage	3800.00	1350.00	1026.00	1074.00	816.00	4266.00		4266.00
	<b>MISC</b>								
	<b>HOUSING</b>								

Part Two (continued)		Receipts							Settlement	
Exemptions		Budget Estimate	1/1 thru 5/31	4/1 thru 6/30	7/1 thru 9/30	10/1 thru 12/31	Total YTD	Accounts Receivable 12/31	Total	
32. Other (describe)										
33. Candidate Filing Fee										
34. C.O.R.M.B.		339,800.00								
35. Interest Earned										
36. LIEN FEES		3,400.00								
37. Total Receipts										
38. Petty Cash										
39. Borrowed Money										
40. Total Receipts		717,800.67	208,539.21	127,255.30	131,331.87	114,636.93	581,777.33		581,777.33	
Accounting columns are for 12/31 report only by page 1, line 8. Accounting columns are for 12/31 report only by page 1, line 9. Accounting columns are for 12/31 report only by page 1, line 10. Accounting columns are for 12/31 report only by page 1, line 11. Accounting columns are for 12/31 report only by page 1, line 12. Accounting columns are for 12/31 report only by page 1, line 13. Accounting columns are for 12/31 report only by page 1, line 14. Accounting columns are for 12/31 report only by page 1, line 15. Accounting columns are for 12/31 report only by page 1, line 16. Accounting columns are for 12/31 report only by page 1, line 17. Accounting columns are for 12/31 report only by page 1, line 18. Accounting columns are for 12/31 report only by page 1, line 19. Accounting columns are for 12/31 report only by page 1, line 20. Accounting columns are for 12/31 report only by page 1, line 21. Accounting columns are for 12/31 report only by page 1, line 22. 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Part Three Disbursements		Budget Estimate	1/1 thru 5/31	4/1 thru 6/30	7/1 thru 9/30	10/1 thru 12/31	Total YTD	Accounts Payable 12/31	Total	
Required Payments										
1. Payments to State (describe)										
2. Motor Vehicle:										
3. License & Transfers		156,000.00	33,393.00	39,000.00	17,920.78	20,639.01	101,252.83		101,252.83	
4. Usage Tax		116,000.00	27,692.11	15,720.73	23,210.80	19,529.57	89,250.56		89,250.56	
5. Tangible Personal Prop Tax		83,000.00	12,522.59	24,720.98	18,450.82	25,782.28	79,559.12		79,559.12	
6. Licenses (describe)										
7. Fish & Game										
8. Marriage Licenses										
9.										
10. Delinquent Tax		2,000.00	195.31							
11. Legal Process Tax		43,000.00	574.90	116,627	17,294.68	104,227	208,926		208,926	
12. Other Services							179,117		179,117	
13. Payments to Fiscal Court (describe)										
14. Tangible Personal Property Tax		225,000.00	35,292.71	65,881.15	33,717.2	6,971,003	21,930.21		219,302	
15. Delinquent Tax		26,000.00	308.58							
16. Dead Transfer Tax		2,850.00			28,500.8	2,442.35	34,031.65		34,031.65	
17. Occupational Licenses										
18. Beer & Liquor Licenses										

OWSLEY COUNTY  
COUNTY CLERK'S 4<sup>TH</sup> QUARTER REPORT  
(Continued)

Part Three (continued) Disbursements		Budget Estimate	1/1 thru 3/31	4/1 thru 6/30	7/1 thru 9/30	10/1 thru 12/31	Total YTD	Unpaid Obligations	Settlement Total
19.	Fiscal Court/Tax Bill Prep								
20.									
21.	Payments to Other Districts (describe)								
22.	Tangible Personal Property Tax	133500.00	16798.89	51277.22	252355.2	30583.29	103844.92		103844.92
23.	Delinquent Tax	12650.00	1198.64		12038.18	708.85	13997.57		13997.57
24.									
25.	Payments to Sheriff	250.00	174.11		23373.4	127.10	25385.5		25385.5
26.									
27.	Payments to County Attorney	2500.00	313.88		3241.73	203.10	3759.31		3759.31
28.	Total Required Payments								
	Official Expenses								
29.	Personal Services								
30.	County Clerk's Gross Salary & Major	83300.00	10570.62	10570.62	10570.62	10570.62	42282.48		42282.48
31.	County Clerk's Expense Allowance								
32.	Deputies Gross Salaries & Major	86150.67	11647.84	11647.84	11647.84	11647.84	46590.52		46590.52
33.	Part Time Gross Salaries								
34.	Overtime Gross								
35.	Unemployment Insurance								
36.	Employee Benefits								
37.	Employer's Share S.S. (7.65%)								
38.	Employer's Share Ret.								
39.	Employer Paid Health Insurance								
40.	Other Payroll Disbursements								
41.	Training Fringe Benefit (HB 810)								
42.	Contracted Services								
43.	Fish & Game								
44.	Advertising								
45.	Printing & Binding								

OWSLEY COUNTY  
COUNTY CLERK'S 4<sup>TH</sup> QUARTER REPORT  
(Continued)

Part Three (continued)		Budget	1/1 thru	4/1 thru	7/1 thru	10/1 thru	Total	Unpaid	Settlement
Disbursements		Estimate	3/31	6/30	9/30	12/31	YTD	Obligations	Total
46.	ELECTRICAL	8000.00	35.00		5730.00	4845.00	10575.00		10575.00
47.	FEVER TISSUE						35.00		35.00
48.	Supplies & Materials (selected)								
49.	Office Supplies	1500.00	1125.79		526.29		1350.00		1350.00
50.	PHONE	1500.00	490.00	20.35	450.22	819.17	1910.82		1910.82
51.	Other Charges (described)								
52.	Conventions & Travel								
53.	Dues	3500.00							
54.	Postage	4500.00	679.79	271.10	320.84	536.36	1807.63		1807.63
55.	Misc	2200.00	1881.89	2599.86	7487.58	3256.57	14575.90		14575.90
56.	CDA TRACT LEASE	2800.00				3800.00	2800.00		2800.00
57.	Debt Services (described money borrowed, loan, purchase)								
58.	Principal on Note								
59.	Interest								
60.	Computer Lease								
61.	Capital Outlay (equipment, purchase on account, other)								
62.	Office Equipment								
63.	Vehicle								
64.									
65.									
66.									
67.	Total Official Expenses		112,444.23	14,838.86	149,313.71	170,142.63	578,486.99		578,486.99
68.	Payments to County Treasurer								
69.	Payments to State Treasurer								
70.	Total Disbursements								

Enter total of lines 28, 67, 68 and 69 on line 70.  
Enter and report amount on line 70 in the Budget column in the Summary on page 1, column 2, line 2. Copy the figure shown on line 70 in the 1st column of page 1, column 2, line 2.  
When line 70 is reported on page 1, line 10.

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND  
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL  
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS





**ADAM H. EDELEN**  
**AUDITOR OF PUBLIC ACCOUNTS**

The Honorable Ronnie DeBord, Owsley County Judge/Executive  
The Honorable Sid Gabbard, Owsley County Clerk  
Members of the Owsley County Fiscal Court

**Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards**

We were engaged to audit the statement of revenues, expenditures, and excess fees - regulatory basis of the Owsley County Clerk for the year ended December 31, 2011, and have issued our report thereon dated March 8, 2013 wherein we disclaimed an opinion on the financial statement because the County Clerk failed to maintain adequate accounting records and lacked adequate internal controls resulting in high audit and fraud risk.

**Internal Control Over Financial Reporting**

Management of the Owsley County Clerk's office is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the County Clerk's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the County Clerk's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the County Clerk's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses and therefore, there can be no assurance that all deficiencies, significant deficiencies, or material weaknesses have been identified. However, as described in the accompanying comments and recommendations, we identified certain deficiencies in internal control over financial reporting that we consider to be material weaknesses.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statement will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described in the accompanying comments and recommendations as items 2011-01, 2011-02, 2011-03, 2011-04, 2011-06, 2011-09, 2011-13, 2011-14, and 2011-18 to be material weaknesses.



Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards  
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Owsley County Clerk's financial statement for the year ended December 31, 2011, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations as items 2011-02, 2011-04, 2011-05, 2011-07, 2011-08, 2011-09, 2011-10, 2011-11, 2011-12, 2011-13, 2011-14, 2011-15, 2011-16, 2011-17, 2011-18 and 2011-19.

This report is intended solely for the information and use of management, the Owsley County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Adam H. Edelen', with a long horizontal line extending to the right.

Adam H. Edelen  
Auditor of Public Accounts

March 8, 2013

## COMMENTS AND RECOMMENDATIONS



OWSLEY COUNTY  
SID GABBARD, COUNTY CLERK  
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2011

**FINANCIAL STATEMENT FINDINGS:**

**2011-01 The County Clerk Did Not Manage The Financial Activities Of His Office**

The County Clerk did not account for the financial activities of his office by maintaining complete and accurate financial records, as further discussed in Comment 2011-02. The 4<sup>th</sup> Quarterly Report given to auditors was not supported by the receipts and disbursements ledgers and did not agree to bank activity for the period. Due to numerous errors noted in the following comments and recommendations, auditors cannot verify the accuracy of the financial statement. Inaccurate and incomplete financial reports can lead to improper financial decision making as well as increase the risk that errors and/or fraud will occur and go undetected.

Auditors have not been able to express an opinion on the County Clerk's financial statements for the past ten years including the current engagement. Recommendations have been made for at least the last eleven years by three different auditing firms in an attempt to help the County Clerk understand how he could easily correct his poor financial practices and internal controls. The County Clerk has made some improvements, however until all deposits are made intact daily and all receipts are posted to the receipts ledgers, fraud risk will continue to be high.

The County Clerk needs to improve his financial practices and internal controls, as discussed in Comments 2011-02 and 2011-03, to ensure that proper information is submitted in a timely manner and is not misleading to users of the information. Additionally, complete and accurate financial records can ensure expenditures are made only when sufficient funds are available. The County Clerk's current practices create an environment for potential material misstatements to occur in the financial statements either by error or fraud and go undetected. If the County Clerk continues his poor financial practices and does not improve the internal control structure as recommended in Comment 2011-03, taxpayer monies will continue to be at risk. In addition, various local and state agencies that rely on and monitor the financial and program activity of the County Clerk cannot rely on nor have any confidence in the reports submitted by the County Clerk. We recommend the County Clerk prepare complete and accurate financial reports that are supported by the ledgers and bank activity of his office.

*County Clerk's Response: No response.*

OWSLEY COUNTY  
SID GABBARD, COUNTY CLERK  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2011  
(Continued)

**FINANCIAL STATEMENT FINDINGS (CONTINUED):**

**2011-02 The County Clerk Did Not Comply With The Uniform System Of Accounts**

Multiple year audit findings represent failure to comply with the Uniform System of Accounts as adopted by the State Local Finance Officer (SLFO) under KRS 68.210. Among other provisions, the SLFO requires the official to maintain accurate recording of receipts by source and expenditures by payee, and to fulfill all other legal requirements relating to the oversight and management of public funds by his office, including all publication requirements. The County Clerk failed to comply with the minimum requirements of the Uniform System of Accounts in the following areas:

- Three part receipt forms were not issued for all transactions (See Comment 2011-12)
- Deposits were not made intact daily
- Bank reconciliations were not prepared monthly
- Daily checkout sheets were not utilized to account for all receipts collected and were not prepared timely
- Annual financial statement was not prepared accurately and was not published
- Quarterly reports were not submitted to the Department for Local Government as required
- Complete and accurate receipt ledger was not properly maintained

Failure to complete these tasks results in inadequate oversight and accountability over financial activity as well as increases the risk that errors and/or fraud will occur and go undetected. We recommend the County Clerk meet the minimum requirements of accountability for compliance with the Uniform System of Accounts.

*County Clerk's Response: No response.*

**2011-03 The County Clerk's Office Lacks Adequate Segregation Of Duties**

The County Clerk's office lacks adequate segregation of duties which further contributes to the inability to rely on his financial information. The County Clerk maintains the disbursement ledger, makes the bank deposits, and mails checks for payment. Good internal controls dictate the same employee should not receive payments, make deposits, and prepare checks for payment.

If, due to a limited number of staff, it is not possible to segregate duties strong oversight over these areas should occur and involve an employee not currently performing any of those functions. Additionally, the County Clerk could provide the oversight. If the County Clerk does implement compensating controls, these should be documented on the appropriate source documentation. Examples of possible compensating controls include the following:

- The County Clerk, or his designee, could periodically compare the daily checkout sheet to the deposit slip and receipts ledger. Any discrepancies should be resolved and the review should be documented by initialing and dating the deposit ticket, the daily checkout sheet, and the receipts ledger.



OWSLEY COUNTY  
 SID GABBARD, COUNTY CLERK  
 COMMENTS AND RECOMMENDATIONS  
 For The Year Ended December 31, 2011  
 (Continued)

**FINANCIAL STATEMENT FINDINGS (CONTINUED):**

2011-03 The County Clerk's Office Lacks Adequate Segregation Of Duties (Continued)

- The County Clerk, or his designee, could compare total collections per monthly and weekly reports to daily checkout sheets. Any discrepancies should be resolved and the review should be documented by initialing and dating the report.
- The County Clerk, or his designee, could compare cancelled checks listed on the bank statement to the amounts recorded in the disbursements ledger. Any discrepancies should be resolved and the review should be documented by initialing and dating the bank statement and the disbursements ledger.

We recommend the County Clerk immediately implement controls and oversight over the financial activities of his office to ensure errors are prevented or detected in a timely manner.

*County Clerk's Response: No response.*

2011-04 The County Clerk Has A Known Deficit Of \$132,305 In His 2011 Fee Account

After all known unpaid liabilities are accounted for, the County Clerk has a \$132,305 known deficit in his 2011 fee account. The amount reported as a known deficit is the result of undeposited and/or unrecorded receipts, and disallowed expenditures as outlined in the schedule below.

Unrecorded and/or Undeposited Receipts	\$ 132,146
Disallowed Expenditures	<u>159</u>
Total Deficit	<u><u>\$ 132,305</u></u>

Comparisons of the County Clerk's records, information obtained from outside sources, and bank records revealed \$132,146 in undeposited and/or unrecorded receipts. This comparison also showed significant delays in deposits and unusual cash deposit patterns.

Due to numerous problems with the County Clerk's financial accounting and reporting system (See Comment 2011-02) and his internal control structure (See Comment 2011-03), we cannot eliminate the possibility that the deficit is greater than the known amount.

We recommend the County Clerk deposit personal funds of \$132,305 to cover the known deficit in his 2011 fee account, and then pay all liabilities still outstanding (See Comment 2011-07). We also recommend the County Clerk take immediate steps to ensure all funds received by his office are deposited into his official account timely and that all liabilities resulting from official operations are reported properly and paid promptly.

*County Clerk's Response: No response.*

OWSLEY COUNTY  
SID GABBARD, COUNTY CLERK  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2011  
(Continued)

**FINANCIAL STATEMENT FINDINGS (CONTINUED):**

2011-04 The County Clerk Has A Known Deficit Of \$132,305 In His 2011 Fee Account  
(Continued)

Auditor's Reply: The County Clerk did not provide us with a signed management representation letter nor did he approve material audit adjustments necessary for proper report presentation. Thus the financial statement presented in this report is the County Clerk's fourth quarter financial report. However, had the Clerk approved the material audit adjustments as documented by audit procedures, financial statements and a deficit schedule of \$132,305 would be presented.

2011-05 The County Clerk Had \$159 In Disallowed Expenditures

The County Clerk had \$159 in disallowed expenditures which includes \$96 in bank overdraft fees, \$8 in late fees, and \$55 in undocumented reimbursements. Items such as bank overdraft fees, late payment fees, and undocumented reimbursements are not necessary expenses of the office and are reflective of poor management practices. In Funk vs. Milliken, 317 S.W.2d 499 (KY 1958), Kentucky's highest court reaffirmed the rule that county fee officials' expenditures of public funds will be allowable only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal in nature. We recommend the County Clerk only expend fee account monies for allowable purposes and have the proper supporting documentation for each payment. We have recommended the County Clerk deposit personal funds to cover the deficit as discussed in Comment 2011-04, which includes \$159 in disallowed expenditures.

*County Clerk's Response: No response.*

2011-06 The County Clerk Deposited \$36,600 Of Unidentified Cash After Year End

The County Clerk deposited cash totaling \$36,600 after the close of calendar year 2011. The County Clerk did not provide any financial documentation or records supporting the source of the funds, however, we have given the County Clerk credit for these funds in determining his account deficit. If these funds had not been applied to the 2011 Fee Account, the known deficit would be significantly higher. Because the County Clerk continues the practice of producing insufficient financial records over receipts, we cannot eliminate the possibility that these cash deposits were from 2012 cash collections as these deposits could not be directly attributed to any 2011 collections or other fees of the County Clerk's office. Furthermore, we question the validity of any and all deposits occurring after the County Clerk has completed his settlement as no additional funds should be deposited into the fee account after settlement is made.

All collections for each business day must be deposited intact daily. Funds received should not remain un-deposited for significant time periods as this increases the risk that the funds will be misappropriated. We recommend the County Clerk cease unidentified and undocumented cash deposits after year end.

*County Clerk's Response: No response.*

OWSLEY COUNTY  
 SID GABBARD, COUNTY CLERK  
 COMMENTS AND RECOMMENDATIONS  
 For The Year Ended December 31, 2011  
 (Continued)

**FINANCIAL STATEMENT FINDINGS (CONTINUED):**

2011-07 The County Clerk Has Not Closed Out His 2011 Fee Account

In order to close out the 2011 fee account, the County Clerk needs to collect the following:

Due Personally From Clerk:

Unrecorded and/or Undeposited Receipts	\$ 132,146
Disallowed Expenditures	<u>159</u>

Total to be Collected 132,305

The County Clerk has an account balance of \$20. Once the amounts above are collected, the County Clerk will have a total of \$132,325 available to pay the following liabilities:

Unpaid Obligations:

Internal Revenue Service - Withholdings and Matching	\$ 25,007
State Treasurer-	
Kentucky Retirement System - Withholdings and Matching	23,094
Delinquent Tax	5,647
Owsley County-	
Delinquent Tax	7,982
Deed Transfer Tax	1,804
Excess Fees Due	1,161
Delinquent Taxes Due-	
Owsley County School	19,804
Owsley County Library	6,956
Owsley County Health	2,208
Owsley County Extension	5,598
Owsley County Soil Conservation	2,558
Owsley County Attorney	8,784
Owsley County Sheriff	7,121
Other Liabilities-	
Due 2010 Fee Account for Usage Paid and overpayments	5,609
Due 2012 Fee Account for deposit errors	2,316
Due Usage Tax Account	489
Due Clerk for Net Wage Difference	1,896
Due County Clerk for Expense Allowance Payable	3,004
Due Deputy Clerk for Net Wages Difference	643
Due Deputy Clerk for Net Wages Difference	<u>644</u>

Total Unpaid Obligations \$ 132,325

OWSLEY COUNTY  
SID GABBARD, COUNTY CLERK  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2011  
(Continued)

**FINANCIAL STATEMENT FINDINGS (CONTINUED):**

2011-07 The County Clerk Has Not Closed Out His 2011 Fee Account (Continued)

After all receivables are collected and all liabilities are paid, the County Clerk will be able to close his 2011 fee account. We recommend he take the necessary steps to ensure the amounts above are collected and paid as soon as possible.

*County Clerk's Response: No response.*

2011-08 The County Clerk Did Not Remit Payroll Withholding And Matching Funds To Proper Agencies

The County Clerk withheld payments from employee payroll checks for FICA, Retirement, Federal, and State withholdings as required. However, the County Clerk did not remit these employee withholdings to the appropriate agencies. In addition, the County Clerk did not provide the required employer matching funds for FICA and retirement withholdings. As of December 31, 2011, the County Clerk owes the Internal Revenue Service \$25,007 for FICA withholdings, matching funds, and federal withholdings. The County Clerk owes the County Employees Retirement System \$23,094 for retirement withholdings and matching funds.

Title 26 of the *United States Code* outlines requirements for FICA withholding and matching requirements in addition to federal withholding requirements. The County Clerk withheld FICA improperly from wages for calendar year 2011. Social Security withholdings were reduced to 4.2% for the calendar year, however the county clerk did not reduce the amount withheld. Employees are due additional funds for wages earned based on the improper calculation for social security. (See Comment 2011-07) Had withholding reports been completed the clerk would have been aware of the change in the social security rate and proper payments would have been made to the employees.

The County Clerk was required to match 7.65% of gross payroll (less retirement) for FICA. KRS 78.625 requires employers to submit retirement withholding and matching funds in accordance with KRS 78.610 and 61.565. The County Clerk was required to match 16.93% of gross payroll for the first half of the calendar year and 18.96% of gross payroll for the second half of the calendar year for retirement. 103 KAR 18:010 requires all employers to deduct, withhold, and pay to the state taxes required to be withheld.

Failure to remit these payments can result in significant financial penalties to the County Clerk as well as reduce the employees' years of service credit and financial contributions used to calculate retirement benefits. After the County Clerk collects receivables of \$132,305 as noted in Comment 2010-07, we recommend the County Clerk make these payments immediately and also contact each agency for assistance in calculating penalties and interest accrued on the late payments. These penalties and interest will ultimately increase the deficit and will increase the amount of personal funds due from the County Clerk. We will refer this issue to the Internal Revenue Service, the County Employees Retirement System, the Kentucky Department of Revenue, and the Attorney General.

OWSLEY COUNTY  
 SID GABBARD, COUNTY CLERK  
 COMMENTS AND RECOMMENDATIONS  
 For The Year Ended December 31, 2011  
 (Continued)

**FINANCIAL STATEMENT FINDINGS (CONTINUED):**

2011-08 The County Clerk Did Not Remit Payroll Withholding And Matching Funds To Proper Agencies (Continued)

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*County Clerk's Response: No response.*

2011-09 The County Clerk Did Not Account For Delinquent Taxes Completely And Accurately

The County Clerk did not properly report the amount of delinquent tax payments received for calendar year 2011. Auditors confirmed delinquent tax revenues from outside sources and discovered \$51,890 in delinquent tax payments that were received by the County Clerk but were not reported and paid to the appropriate taxing districts. In addition, \$21,438 of delinquent tax bills were missing from the County Clerk's office indicating payments for these bills were collected, but not recorded, or these bills were not properly secured within the Clerk's office.

By not reporting all collections, taxing districts, the County Attorney, and the County Sheriff were not paid their share of delinquent taxes. Additionally, understated delinquent taxes contribute to incomplete and inaccurate financial reporting and to the known deficit in the County Clerk's 2011 fee account. The following known payments are due the taxing districts for delinquent taxes:

State Share	\$ 5,647
County Share	7,982
School	19,804
Library	6,956
Health	2,208
Extension	5,598
Soil	2,558
County Attorney	8,784
Sheriff	<u>7,121</u>
Total Due Districts	66,658
Retained by County Clerk:	
Commissions and Fees	<u>6,670</u>
TOTAL	<u>\$ 73,328</u>

In addition to the \$73,328 of known unpaid delinquent taxes, there could have been payments received for prior year delinquent tax bills that could not be accounted for. These bills were turned over to the County Clerk as required, but were not reported as paid and cannot otherwise be located in the County Clerk's records.

OWSLEY COUNTY  
SID GABBARD, COUNTY CLERK  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2011  
(Continued)

**FINANCIAL STATEMENT FINDINGS (CONTINUED):**

2011-09 The County Clerk Did Not Account For Delinquent Taxes Completely And Accurately  
(Continued)

Furthermore, the County Clerk is not collecting the proper amount from taxpayers due to not calculating the delinquent tax amount owed accurately. We noted he is charging 25% for sheriff fees, instead of 15% that would be appropriate. Also, he does not always charge the appropriate amount for interest, county attorney fees and clerk commission. By not calculating the correct amount for delinquent taxes, the taxpayers are not paying the appropriately and the districts are not receiving adequate payments. The County Clerk's Manual gives examples of how to calculate tax bills correctly based on the month of collection.

KRS 134.126 outlines the County Clerk's responsibilities for reporting and remitting delinquent taxes. The County Clerk is required to report and pay all delinquent taxes collected by the 10<sup>th</sup> of each month to each district. After the County Clerk collects receivables of \$132,305 as noted in Comment 2011-07, we recommend the County Clerk pay the taxing districts amounts owed for delinquent taxes and comply with the requirements of KRS 134.126 for all future collections. We will refer this matter to the Attorney General and the County Attorney.

*County Clerk's Response: No response.*

2011-10 The County Clerk Did Not Remit Deed Transfer Tax To The County

The County Clerk collected deed transfer tax in accordance with KRS 142.050(4); however, he did not remit the total due to the county. The county is owed \$1,804 for deed transfer tax for calendar year 2011. KRS 142.050(4) states, "The county Clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county Clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund." Failure to make these payments keeps the county from utilizing the funds. After the County Clerk collects receivables of \$132,305 as noted in Comment 2011-07, we recommend the County Clerk pay \$1,804 due the county. We also recommend quarterly deed transfer tax payments be made as required in the future.

*County Clerk's Response: No response.*

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OWSLEY COUNTY  
 SID GABBARD, COUNTY CLERK  
 COMMENTS AND RECOMMENDATIONS  
 For The Year Ended December 31, 2011  
 (Continued)

**FINANCIAL STATEMENT FINDINGS (CONTINUED):**

2011-11 The County Clerk Has Not Closed Out His 2010 Fee Account

The Clerk deposited \$39,900 of cash deposits into the 2010 fee account and paid out liabilities due from the 2010 fee account except for \$25,551 of liabilities as noted below. In order to close out the 2010 fee account, the County Clerk needs to collect the following:

Due Personally from Clerk for Deficit:

Undeposited Receipts	\$ 22,125
Due From 2011 Account	<u>5,609</u>

Total To Be Collected	<u>\$ 27,734</u>
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The County Clerk has a deficit account balance of (\$2,813). Once the amounts above are collected, the County Clerk will have a total of \$25,551 available to pay the following liabilities:

Unpaid Obligations:

Internal Revenue Service - Withholdings and Match	\$ 4,711
State Treasurer-	
Withholdings	4,712
County Attorney - Delinquent Tax	2,942
Due to 2009 Fee Account for Prior Period Unpaid Obligations	<u>13,186</u>
Total Unpaid Obligations	<u>\$ 25,551</u>

After all receivables are collected and all liabilities are paid, the County Clerk will be able to close his 2010 fee account. We recommend he take the necessary steps to ensure the amounts above are collected and paid as soon as possible.

*County Clerk's Response: No response.*

OWSLEY COUNTY  
 SID GABBARD, COUNTY CLERK  
 COMMENTS AND RECOMMENDATIONS  
 For The Year Ended December 31, 2011  
 (Continued)

**FINANCIAL STATEMENT FINDINGS (CONTINUED):**

2011-12 The County Clerk Did Not Settle Prior Period Liabilities

During our audit of the 2010 Fee account we became aware of additional liabilities that were owed from the 2009 Fee account that were not identified in the 2009 audit. As was found in the 2010 audit, the County Clerk did not remit all payroll withholdings and matching funds for FICA and retirement for 2009. The County Clerk owes \$15,137 for FICA and \$2,236 for retirement. Also, deed transfer tax totaling \$2,429 due the county for 2009 was not remitted.

Once these additional liabilities are accounted for, the 2009 Fee Account is in a deficit. Furthermore, the Clerk did not close out 2006, 2007, 2008, and 2009 Fee Accounts by collecting and paying the amounts due as determined in prior year audits. We have netted the amounts due in each of these prior years into a single schedule. The 2010 Fee Account owes the 2009 Fee Account \$13,186 as noted in Comment 2010-11, which can be used to partially fund the additional liabilities identified. The County Clerk is personally responsible for the remainder necessary for all prior period liabilities to be satisfied.

**Amounts Due From:**

2010 Fee Account (See Comment 2010-11)	\$ 13,186
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**Amounts Due To:**

Extension	\$ 380	
County Attorney	102	
City of Booneville	105	
Soil Conservation	410	
Internal Revenue Service - FICA	15,137	
County Employees Retirement System - Retirement	2,236	
County - Deed Transfer Tax	2,429	20,799

Amount Personally Due From Clerk	<u>\$ (7,613)</u>
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We recommend the County Clerk deposit \$7,613 of personal funds to cover the known cumulative deficit for prior periods, collect \$13,186 from the 2010 Fee Account, and then pay all liabilities as reflected in the schedule above.

*County Clerk's Response: No response.*



OWSLEY COUNTY  
SID GABBARD, COUNTY CLERK  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2011  
(Continued)

**FINANCIAL STATEMENT FINDINGS (CONTINUED):**

2011-13 The County Clerk Did Not Issue Receipts In Accordance With KRS 64.840

The County Clerk did not prepare receipts for all funds collected. Auditors reviewed one month of collections and noted the total listing of receipts does not agree to the daily checkout sheet. In addition, receipts were not issued in triplicate as required. According to KRS 64.840, "the county Clerk shall, upon the receipt of fine, forfeiture, tax, or fee, prepare a receipt that meets the specifications of the state local finance officer." The preparation of receipts for all funds received begins the receipts process and will ensure all receipts are included on the daily checkout sheet and receipts ledger. We recommend the County Clerk prepare receipts for all monies received by his office either in the office or by mail. Furthermore, we recommend that receipts be issued in triplicate, with one copy given to customer, one copy filed with daily checkout sheet, and one copy filed in the book of original entry.

*County Clerk's Response: No response.*

2011-14 The County Clerk Did Not Record Payments From The Commonwealth Of Kentucky And The Fiscal Court In Accordance With KRS 43.075

The County Clerk did not record all payments received from the Commonwealth of Kentucky and the Owsley County Fiscal Court in accordance with KRS 43.075. Auditors performed test procedures on these payments and noted these payments were not recorded on the daily checkout sheets or in the receipts ledger, however, we did note that these payments were deposited into the bank account. The only recording of these payments was made on the Quarterly Report, and those amounts did not agree to third party confirmations of state and county payments. We recommend the County Clerk record payments from the Commonwealth of Kentucky and the Fiscal Court on the daily checkout sheets and the receipts ledgers in accordance with KRS 43.075.

*County Clerk's Response: No response.*

OWSLEY COUNTY  
SID GABBARD, COUNTY CLERK  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2011  
(Continued)

**FINANCIAL STATEMENT FINDINGS (CONTINUED):**

2011-15 The County Clerk Did Not Follow Proper Timekeeping Practices For Payroll

During our audit, we noted that some timesheets did not account for the hours worked each day and did not account for leave used. KRS 337.320 states, "Every employer shall keep a record of the hours worked each day and each week by each employee." Complete and accurate time records are necessary to ensure employees are paid for actual hours worked and any overtime if necessary. Additionally, vacation and sick leave balances should be maintained to ensure leave time accrued is accurate. We recommend the County Clerk ensure all employees' timesheets include all hours worked, all approved leave time, and accumulated leave balances.

*County Clerk's Response: No response.*

2011-16 Form 1099 Was Not Prepared For All Applicable Contract Labor

As a trustee/agent, the County Clerk is responsible for reporting contract labor payments to the appropriate agencies in a timely manner. The County Clerk paid a total of \$2,000 to an individual for contract labor that should be reported as taxable income by the individual. The Internal Revenue Service requires Form 1099 be issued to individual contractors for services resulting in income of \$600 or more. We recommend the County Clerk immediately take the appropriate steps necessary to ensure Form 1099 is prepared and submitted for all contract labor payments. We will refer this matter to the Internal Revenue Service and the Department of Revenue for review.

*County Clerk's Response: No response.*

2011-17 The County Clerk Did Not Remit Ad Valorem Taxes To Taxing Districts Timely

During the test of ad valorem taxes, we noted that checks to some taxing districts did not clear the bank in a timely manner. State and School taxing districts' checks cleared the bank promptly, but disbursements to the county and other districts did not clear the bank until months after the taxes were collected. Several checks for October, November, and December ad valorem collections did not clear the bank until March 2012 and one as late as June 2012. Checks not clearing the bank in a timely manner indicates the County Clerk's failure to send the payments according to the guidelines of KRS 134.815.

KRS 134.815(1) states, in part, "[t]he county clerk shall, by the tenth of each month, report under oath and pay to the state, county, city, urban-county government, school, and special taxing districts all ad valorem taxes on motor vehicles collected by him for the preceding month, less the collection fee of the county clerk, which shall be deducted before payment to the depository." We recommend the County Clerk comply with KRS 134.815(1) and remit ad valorem payments to all districts in a timely manner.

*County Clerk's Response: No response.*

OWSLEY COUNTY  
SID GABBARD, COUNTY CLERK  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2011  
(Continued)

**FINANCIAL STATEMENT FINDINGS (CONTINUED):**

2011-18 The County Clerk Did Not Prepare And Submit Title Applications Timely

The Transportation Cabinet notified the Auditor's Office that title applications for Owsley County were not being prepared and submitted in a timely manner. The County Clerk was significantly behind in submitting title applications to the state. KRS 186A.165 states, "Not later than 3 p.m. on the next business day after an application for a first certificate of registration or title for a vehicle is received by him, the county clerk shall prepare...an application transmittal record." We recommend the County Clerk comply with the requirements of KRS 186A.165 and submit registration and title applications to the state no later than the next business day after they are received.

*County Clerk's Response: No response.*

2011-19 The County Clerk Cashed \$979 Of Checks Received From Taxpayers For Fee Collections

To be in compliance with the uniform system of accounts, receipts should be issued for all fee collections, batched daily, recorded on a daily checkout sheet, deposited intact, and properly posted to the receipt ledger.

During delinquent tax testing, we confirmed delinquent tax payments from Owsley County taxpayers. We received a copy of a cancelled check from a taxpayer that paid a prior year delinquent tax bill of \$474 that we could not trace to a deposit into the Clerk's bank accounts. In addition, we noted a manual receipt for \$505 issued to a taxpayer that included delinquent tax we could not trace. In both cases, inquiry of the bank determined these checks were cashed by the Clerk. In total, we documented \$979 of fee collections for calendar year 2011 were cashed at the bank.

Further testing revealed fee collection checks of \$2,987 and \$719 were cashed for calendar years 2012 and 2013, respectively. These instances support the audit finding that delinquent tax collections are not accounted for completely and accurately. In addition to cashing fee collection checks, we also identified instances in which the Clerk's office cashed checks unrelated to the operations of the Clerk's office.

We recommend the Clerk cease the practice of cashing checks received from fee collections and deposit all collections into the appropriate fee account.

*County Clerk's Response: No response.*

